

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0750

September Term, 2014

RICHARD MCGHEE

v.

VICKIE McCLAIN f/k/a
VICKIE MCGHEE

Wright,
Graeff,
Moylan, Charles E., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Moylan, J.

Filed: September 17, 2015

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

The appellant, Richard McGhee ("Husband"), and the appellee, Vickie McClain ("Wife"), who had been married in June of 1994, were granted an absolute divorce by Judge Cathy Serrette in the Circuit Court for Prince George's County on April 10, 2014. Judge Serrette granted the Wife's counter-complaint on the ground of physical abuse and cruelty. The Wife testified at length about a long history of having been assaulted, threatened, and harassed by her Husband. The Husband, on the other hand, denied ever having assaulted, threatened or harassed his Wife.

On this appeal, the Husband raises the single contention that there was no legally sufficient evidence to corroborate the Wife's testimony about abuse. The only witness to testify in support of the Wife was her friend, Temika Anderson. It is the corroborative quality of Ms. Anderson's testimony that is in issue.

The corroboration requirement in divorce cases, albeit beginning to show its doctrinal age, is still with us. As this Court recently observed in Cruz v. Silva, 189 Md. App. 196, 225, 984 A.2d 295 (2009):

"Even in a world of no-fault divorce based on a mutually voluntary separation, the corroboration requirement retains much of its historic potency. Family Law Article, §7-101(b) unequivocally states:

"A court may not enter a decree of divorce on the uncorroborated testimony of the party who is seeking the divorce."

The corroboration requirement in divorce cases, reflecting a time when divorce generally was looked upon with strong disfavor, was aimed at preventing collusion between marital partners who both wanted a divorce even when they lacked the grounds that would

justify divorce. In Soles v. Soles, 248 Md. 723, 729, 238 A.2d 235 (1968), Judge Barnes spoke of corroboration's preventative purpose:

"The chances of collusion in this type of case are very remote indeed and it must be remembered that the purpose of Maryland Rule S75 [setting out the corroboration requirement] is to prevent collusion in obtaining divorces in this State. Under these circumstances, only slight corroboration is required."

(Emphasis supplied).

Because the prevention of collusion was its generative force, the corroboration requirement early on took on two distinct personalities. Where the risk of collusion was rife, it patrolled the trial with admonitory fervor. Where, by contrast, the chance of collusion was slight or non-existent, the corroboration requirement became little more than a polite formality. In Comulada v. Comulada, 234 Md. 287, 293, 199 A.2d 197 (1964), the Court of Appeals pointed out:

"All of the cases hold that the testimony of the plaintiff must be corroborated and that corroboration cannot be dispensed with altogether. But in contested cases, where there is no possibility of collusion, it has been consistently held that only slight evidence is required to corroborate the testimony of the complaining spouse."

(Emphasis supplied, internal citations omitted). See also, Fortman v. Fortman, 250 Md. 344, 359, 234 A.2d 517 (1968) ("As the present case was a vigorously contested divorce case in which there was no possibility of collusion, the corroboration required ... need only be slight.") (Emphasis supplied); Carpenter v. Carpenter, 257 Md. 218, 227, 262 A.2d 564 (1970) ("The present case being a contested one, with little likelihood of collusion, even

slight corroborating evidence is sufficient.") (Emphasis supplied); Das v. Das, 133 Md. App. 1, 39, 754 A.2d 441 (2000) ("The corroboration required varies with the circumstances of each case; as the likelihood of collusion decreases, so does the degree of corroboration needed.") (Emphasis supplied).

The present case was a hotly contested case with no possibility of collusion. Hence, the corroboration need only have been slight. The Wife had testified, inter alia, that on Friday, February 22, 2013, she was at home when her Husband pushed her, took her cell phone and her key, and then scraped her arm.

The corroborating witness testified that on that very day, Friday, February 22, she received a call from the Husband, inquiring about his Wife's whereabouts. (She had inferentially left the home after having been assaulted). The witness testified that the call from the Husband was on his Wife's cell phone, corroborating the Wife's story that her Husband had taken her cell phone from her.

The witness further testified that on Monday three days after the Friday assault, the Wife came to the witness's home to tell her about the assault. On that occasion, the witness saw "the bruises on [the Wife]'s shoulder" and then, looking at the Wife's elbow, described it as having "bruises on it" and being "scabbed up."

We find persuasive Judge Marvin Smith's opinion for the Court of Appeals in Stewart v. Stewart, 256 Md. 272, 260 A.2d 71 (1969). In that case, Mrs. Stewart described an attack on her by her husband after which she and her son left the marital abode and went to the

apartment of a friend, Mrs. Fox, "where they spent the night." "There were bruises observed by Mrs. Fox on Mrs. Stewart's arm." 256 Md. at 277. An issue in the case was that of corroboration of the Wife's testimony.

"The husband contends that there was no basis for granting a divorce for constructive desertion and that there was insufficient corroboration."

256 Md. at 278. (Emphasis supplied).

The Court of Appeals found the necessary corroboration in Mrs. Fox's observation of the bruises on Mrs. Stewart's arm.

"There is in this case corroboration from the testimony of Mrs. Fox relative to the bruises and Mrs. Stewart's coming to the apartment of Mrs. Fox after she was obliged to leave the Stewart home on July 3, 1966."

256 Md. at 281.

We have no difficulty in finding similarly adequate corroboration of the Wife's testimony in this hotly contested divorce case with no remote suggestion of collusion.

**JUDGMENT AFFIRMED; COSTS
TO BE PAID BY APPELLANT.**